

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NOS. 8:06CR182; 8:06CR338
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
LEOPOLDO MEJIA,)	
)	
Defendant.)	

The Court has received the Revised and Updated Presentence Investigation Report ("PSR") and the Defendant's objections thereto (8:06CR182, Filing No. 118; 8:06CR338, Filing No. 60). The government adopted the PSR (8:06CR182, Filing No. 119; 8:06CR338, Filing No. 61). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant argues that the guideline sentence of 24 months for Count II in 8:06CR182 exceeds the 1-year statutory maximum for that count and that the basis upon which the probation officer grouped that count with Count I in 8:06CR338 is not valid. The objections, which are not supported by legal authority, are denied for that reason and because they are untimely for not having been submitted previously to the probation officer as required.

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (8:06CR182, Filing No. 118; 8:06CR338, Filing No. 60) are denied;

2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 23rd day of January, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge